

**LEGAL SERVICES CONTRACT
INDIGENT DEFENSE CASEWORK
No. 493-04**

1. Representation as to Ability: Contractor represents that (s)he is licensed to practice law in Iowa and that (s)he will continue to perform services contemplated unless this contract is terminated.

2. Services to be Performed by Contractor: Contractor will provide legal services to indigent persons in cases in which appointment of counsel is constitutionally required or statutorily permitted under the provisions listed in 815.11. This contract shall apply to all legal services rendered by Contractor after the effective date of the contract, including services performed pursuant to an appointment order entered prior to the effective date of the contract.

Contractor shall notify the Court of the types of cases to which Contractor is willing to accept court appointments. Contractor may decline appointments.

3. Compensation: Contractor will be paid for legal services performed by Contractor under this contract, pursuant to rules adopted by the State Public Defender, hereinafter referred to as SPD. Contractor shall use his/her best efforts and legal ability on behalf of the client in each case undertaken and shall claim fees only for actual time and expenses reasonably necessary to properly represent the client.

Expenses, such as interpreters, depositions, transcripts, expert fees, evaluations, and similar case-related expenses and out-of-pocket expenses, such as copies, long distance telephone charges, mileage, meals/lodging, postage

and travel will be reimbursed to the extent specified in rules adopted by SPD.

4. Billing: To be paid, Contractor must submit a claim to the State Public Defender in a form prescribed by SPD. The claim must be submitted within the time prescribed by statute and rule, and shall contain the information required by SPD.

5. Payment Set-Off: The SPD and/or the Iowa Department of Revenue may set-off against any sum owed to Contractor pursuant to this contract any sum owed to the State by Contractor as allowed by law.

6. Independent Contractor: Contractor is an independent contractor performing this contract. Contractor is not an employee or agent of SPD or the State and will not hold itself out as an employee or agent of SPD or the State.

7. Non-Exclusive Contract: The SPD may contract with other attorneys to provide the services described in this contract. The SPD does not guarantee Contractor any minimum number of case assignments.

8. Third-Party Beneficiaries: There are no third-party beneficiaries to this contract. This contract is for the benefit of the SPD, State of Iowa, and Contractor.

9. Termination at Will: Either party may terminate this contract by giving thirty (30) days written notice to the non-terminating party. In the event of termination, the

Court shall determine whether the appointed attorney shall continue to handle cases to which the attorney was appointed by virtue of this Contract. Any continued services for such cases will be paid as provided herein.

10. Termination for Non-Appropriation: The SPD may terminate this contract without any penalty or liability to Contractor upon the occurrence of any of the following: if funds necessary for the fulfillment of this contract are not appropriated by the legislature or the governor; if funds previously appropriated are not allotted to SPD; or if necessary funds are insufficient for any other reason. In the event of termination pursuant to this paragraph, the SPD will provide Contractor with written notice of termination. Following termination for non-appropriation, the sole remedy of Contractor against the State is to recover compensation for services rendered prior to termination.

11. Default: If Contractor is no longer permitted to practice law in Iowa for any reason, this contract shall terminate immediately without notice. Upon termination of this contract, services to be performed by Contractor shall cease. All cases being handled by Contractor shall be returned to the Court for reassignment.

12. Waiver of Breach: Failure of the party to require strict performance of an obligation imposed by this contract shall not constitute a waiver of the obligation or limit a party's right to enforce this contract.

13. Compliance with Laws:

Contractor shall comply with all applicable federal, state and local laws, and all applicable rules, including all laws relating to wages, non-discrimination in employment, and occupational safety and health. The specific performance and reporting requirements imposed on state contractors by the rules of the Department of Management that relate to the state's policy of prohibiting discrimination in employment are incorporated by reference. Contractor's failure to comply with the terms of this section shall be considered a material breach of this contract.

14. Records, Retention and Access:

Contractor shall maintain books, records, documents, and other evidence of accounting procedures and practices which sufficiently and properly reflect the services performed and for which payment was requested or which relate to the work performed pursuant to this contract. The SPD shall not have access to confidential client or case information. Contractor shall make such records to which access may properly be made to SPD available to the designee of the SPD or to the State Auditor upon request. These parties shall have the right to examine, audit, excerpt and copy all such records, not subject to attorney-client privilege. Contractor shall retain all books, records, documents and other relevant materials for five years after payment has been made under this contract.

15. Indemnification: Contractor shall defend, protect, indemnify, and hold harmless SPD, State of Iowa and any federal funding source and all of the employees or appointees of each for all liabilities, losses, actions, damages, costs, expenses, and reasonable attorney's fees, including fees which represent time spent by the Office of the Attorney General of Iowa, arising from any negligent or

willful acts, omissions, or any breach of this contract by the Contractor, its employees or agents. Contractor's obligations pursuant to this paragraph shall survive the termination of this contract for any claims, related to or arising from a breach of this contract or for acts or omissions, occurring during the term of this contract.

16. Notices: Notices, approvals, and communications required by this contract shall be in writing unless indicated otherwise in this Contract. "Writing" may include electronic documents to the extent permitted by rules adopted by SPD.

17. Assignment: Contractor shall not assign, transfer, or otherwise dispose of the duties authorized under this contract to any person, firm, or other entity without the prior written consent of SPD. Contractor shall not assign, transfer, or otherwise dispose of any rights, title, claim, or other interest in this contract to any other person, corporation, or other entity without the prior written consent of SPD. Any other attempted assignment or transfer shall be null and void.

Nothing in this provision is intended to prohibit Contractor from having another attorney in practice with Contractor from appearing in Court on behalf of Contractor's appointed client so long as only Contractor bills for the time spent in Court.

18. Modifications: Any modifications to the terms of this contract by reason of changes in administrative rule shall be deemed accepted by Contractor unless Contractor notifies SPD of rejection of these modifications within thirty days of the effective date of the modification. Upon receipt of such rejection, this contract shall terminate.

In the event of termination hereunder, the Court shall determine whether the assigned attorney shall continue to handle cases to which the attorney was appointed by virtue of holding this contract. Any continued services shall be paid as provided herein.

19. Targeted Small Business: If requested by the SPD, Contractor shall consult with the SPD concerning the use of targeted small businesses as a potential source of services and suppliers to facilitate SPD's participation in the state's targeted small business procurement program.

20. Choice of Law and Forum:

This contract shall be interpreted pursuant to the laws of Iowa. Except for those instances specified in Iowa Code chapter 13B, any action brought to resolve any issue arising from the interpretation of or the performance of this Contract shall be brought in Iowa District Court for Polk County.

21. Execution of Documents:

The parties agree to promptly execute all documents necessary to effectuate this contract.

22. Severance: If any provision of this contract is finally held to be unenforceable by a court of competent jurisdiction, the invalid portion shall be severed from this contract but, if possible, the remainder of this contract shall remain valid.

23. Integration: Each party understands that a separate Acceptance and Approval form will be signed as a part of this contract.

This contract and that form is the entire agreement between the parties. Any representations that may have been made before the signing of this contract are not binding. Neither party has relied on prior representations in entering into this contract.